

When a sale is conducted in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts are not subject to tax. See 86 Ill. Adm. Code 130.605. (This is a GIL.)

April 3, 2003

Dear Xxxxx:

This letter is in response to your letter dated November 19, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at www.revenue.state.il.us/Laws/regs/part1200/.

In your letter, you have stated and made inquiry as follows:

I am writing to enquire whether you can help me, I am a British citizen living in England and have recently been on holiday to the USA, where I bought a watch and included in the total price was the state tax. As I do not live in the USA I believe that I am entitled to claim the tax back.

When I flew out of Newark Airport, I enquired about getting a form to claim back the state tax but nobody knew where I could get hold of a form, I have since written to the US embassy in London and they suggested I write to you.

Please could you possibly help me in this situation, do I need to contact the US customs. I have looked on their website but could not find any information relating to this. Could you be able to supply a direct contact number?

I am enclosing a copy of my passport and driving licence as proof that I live in England and the receipt for the watch showing the amount of State Tax I paid.

Thanking you in anticipation.

We are enclosing the documents you sent us for your records. The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See the enclosed copy of 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See the enclosed

copy of 86 Ill. Adm. Code 150.101. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase.

When tangible personal property is located in this State at the time of its sale (or is subsequently produced in this State) and then is delivered in this State to the purchaser, the gross receipts from the sale are subject to tax if the sale is at retail. However, when a sale is conducted in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts are not subject to tax. See subsection (b) of the enclosed copy of 86 Ill. Adm. Code 130.605. Please note that a sale is taxable even though a purchaser that receives physical possession of the property in this State, transports or sends the property out of this State for use outside the State or for use in the conduct of interstate commerce. See 86 Ill. Adm. Code 130.605(a)(2).

For example, the exemption would apply when a seller makes delivery in Illinois to a freight forwarder who handles the arrangements for the property to be delivered outside the United States, not to be returned to the United States. The result would be different if the purchaser received or picked up the goods prior to delivery to a freight forwarder. Retailers who ship property to freight forwarders who take possession of the property in Illinois and ship the property to foreign countries, not to be returned to the United States, are making exempt sales in foreign commerce and do not incur Retailers' Occupation Tax liability on the gross receipts from those sales. In order to document the exemption, the seller should obtain a statement from the purchaser that the property will be used exclusively outside the United States and a shipping document showing delivery of physical possession of the property to a freight forwarder in Illinois.

The State of Illinois has no specific exemption for purchases by foreign or domestic travelers where the property is delivered and used in Illinois. Further, the State of Illinois also does not provide any credit for foreign taxes that will be incurred or conduct any form of rebate program for the taxes paid in this State.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.